

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

CONSENT JUDGMENT

Plaintiff Amgen Inc. (“Amgen”) and Defendant The ACME Laboratories Ltd. (“ACME”), the parties in Civil Action No. 19-1702, have agreed to terms and conditions representing a negotiated settlement of this action and have set forth those terms and conditions in an executed Settlement Agreement (the “Settlement Agreement”). Now the parties, by their respective undersigned attorneys, hereby stipulate and consent to entry of judgment and an injunction in this action as follows:

1. This Court has jurisdiction over the subject matter of the above action and has personal jurisdiction over the parties.
2. As used in this Consent Judgment, (i) the term “ACME Product” shall mean a drug product manufactured, imported, offered for sale, sold, marketed, or distributed pursuant to Abbreviated New Drug Application No. 213325; and (ii) the term “Affiliate” shall mean any entity or person that, directly or indirectly through one or more intermediaries, controls, is controlled by, or is under common control with ACME; for purposes of this definition, “control” means (a) ownership, directly or through one or more intermediaries, of (1) more than fifty percent (50%) of the shares of stock entitled to vote for the election of directors, in the case of a corporation, or (2) more than fifty percent (50%) of the equity interests in the case of any other type of legal entity

or status as a general partner in any partnership, or (b) any other arrangement whereby an entity or person has the right to elect a majority of the Board of Directors or equivalent governing body of a corporation or other entity or the right to direct the management and policies of a corporation or other entity.

3. ACME has admitted, for itself and its Affiliates, that Amgen's U.S. Patent Number 9,375,405, (the "Amgen Patent") is enforceable and valid.

4. ACME has admitted, for itself and its Affiliates, that the manufacture, use, offer to sell, or sale of ACME Product in the United States, and importation of the ACME Product into the United States, would infringe the Amgen Patent.

6. ACME, its Affiliates, and those persons or entities in active concert or participation with them, including any of their respective successors and assigns, are enjoined under the Amgen Patent, including any extensions and/or additional periods of exclusivity to which Amgen is or becomes entitled, from infringing the Amgen Patent by making, having made, using, offering to sell, or selling ACME Product in the United States, or importing ACME Product into the United States, unless specifically authorized pursuant to the Settlement Agreement.

7. Except as the Parties have provided in the Settlement Agreement, by virtue of this Consent Judgment all other claims and demands for relief prayed for by Amgen against ACME in this action are deemed to be satisfied.

8. ACME has agreed that in the event of breach or violation by ACME of the terms of this Consent Judgment, jurisdiction and venue for an action for a preliminary injunction against such breach or violation exists in this District Court, and ACME hereby waives any and all defenses based on personal jurisdiction and venue.

9. Compliance with this Consent Judgment may be enforced by Amgen and its successors in interest, or assigns, as permitted by the terms of the Settlement Agreement.

10. This Court retains jurisdiction to enforce and supervise performance under this Consent Judgment and the Settlement Agreement.

11. The above action, including all claims, counterclaims and affirmative defenses, is hereby dismissed without prejudice and without costs, disbursements or attorneys' fees to any party.

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/s/ Jack B. Blumenfeld

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*Attorneys for Defendant The ACME
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SO ORDERED this _____ day of _____, 2019.

The Honorable Mitchell S. Goldberg